

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

VICTORIA APODACA,

Plaintiff,

v.

DISCOVER FINANCIAL SERVICES and
EQUIFAX INFORMATION SERVICES LLC,

Defendants.

02/02/05

02/02/05

JM

No. 04-CV-717 MCA/WDS

**PLAINTIFF'S REPLY BRIEF IN SUPPORT OF
MOTION TO COMPEL EQUIFAX TO ANSWER DISCOVERY**

I. Equifax Still Refuses to Answer Much of Ms. Apodaca's Written Discovery

A. Equifax Still Refuses to Identify Key Witnesses

In Interrogatories Nos. 8, 9, 10, 11 and 12, Plaintiff Victoria Apodaca requests the identities of Defendant Equifax Information Services LLC's employees who took certain discrete actions in the course of Equifax's investigations of her disputes. These employees are potential witnesses. In her discovery requests, Ms. Apodaca defined "identify" to include:

If the person is no longer employed by Equifax, please state that person's full name, all known residential addresses and telephone numbers, title with Equifax during the transaction which is the subject of this lawsuit, dates of employment and date of birth.

Ms. Apodaca needs the requested location information for former employees because she hopes to track them down and depose them.

With each interrogatory, Ms. Apodaca requested that Equifax identify the employees involved in actions shown by the key documents.

145

1. The October 2003 Automated Consumer Dispute Verification Form

In Interrogatory No. 8, Ms. Apodaca requests that Equifax identify its employees who dealt with the October 2003 Automated Consumer Dispute Verification ("ACDV") form. In October 2003, Equifax transmitted this ACDV form to Defendant Discover Financial Services. *See*, Exhibit A, form. Equifax transmitted the form in response to Ms. Apodaca's dispute of the Discover account listed on her credit report as "included in bankruptcy." Ms. Apodaca provided clear proof to Equifax that the Discover account belonged to another person, including documents from the United States Bankruptcy Court that showed she had never filed for bankruptcy but someone with a similar name had declared bankruptcy. *See*, Exhibit B, letter, relevant attachments and proof of receipt. Discover used this ACDV form to transmit information back to Equifax concerning the disputed Discover account. *See*, Exhibit A, form.

Nevertheless, following Equifax's investigation, Equifax continued to derogatorily report the Discover account on Ms. Apodaca's credit report. Equifax no longer reporting the account as "included in bankruptcy," but reported the account as a "charged off account." *See*, Exhibit C, letter and redacted credit report. Ms. Apodaca hopes to talk to the Equifax employees that handled the transmission and receipt of the October 2003 ACDV form, so she can determine the reasons that Equifax's system failed.

2. The August 2004 Automated Consumer Dispute Verification Form

In Interrogatory No. 9, Ms. Apodaca requests that Equifax identify its employees who dealt with the August 2004 Automated Consumer Dispute Verification form. Ms. Apodaca had previously disputed the Discover account in October 2003, but Equifax had refused to delete the account, despite Ms. Apodaca providing clear documentary proof to Equifax that the account did

not belong to her. *See, infra*, § 1(A)(1). In April 2004, Ms. Apodaca *again* sent Equifax the Bankruptcy Court documents, which clearly showed that this account could not be her account. *See*, Exhibit D, letter and proof of receipt; Exhibit B, attachments.

Nevertheless, following Equifax's investigation, Equifax continued to derogatorily report the Discover account. Equifax resumed reporting the account as "included in bankruptcy." *See*, Exhibit E, letter and redacted credit report. Equifax's system failed a *second time*. Neither Equifax nor Discover have produced an ACDV form concerning this April 2004 investigation.

However, Discover has produced an August 2004 ACDV form. *See*, Exhibit F, form. Ms. Apodaca assumes that this ACDV form represents Discover's initial response to her lawsuit, filed June 25, 2004. *See*, Docket No. 1, complaint. As a result of the August 2004 ACDV form, Equifax deleted the Discover account from Ms. Apodaca's credit file. Ms. Apodaca hopes to talk to the Equifax employees that handled the August 2004 ACDV form, so she can compare and contrast the procedures that Equifax used in August 2004 with the procedures that Equifax used in the two pre-lawsuit disputes where it refused to delete the account.

3. The Bankruptcy Dispute Verification Request

In Interrogatory No. 10, Ms. Apodaca requests that Equifax identify its employees who took actions related to the Bankruptcy Dispute Verification Request ("BDVR") form. In September 2003, Equifax transmitted this BDVR form to National Data Retrieval, a business to which Equifax outsources its maintenance of public records information, including consumer bankruptcies. *See*, Exhibit G, form. Equifax transmitted the BDVR form in response to Ms. Apodaca's dispute of the bankruptcy listed on her credit report. Ms. Apodaca sent Equifax the Bankruptcy Court documents with this dispute as well. *See*, Exhibit H, letter; Exhibit B,

attachments. Ms. Apodaca first faxed the Bankruptcy Court documents on August 12, 2003, the day after she received the documents, but faxed the same documents to Equifax at least three more times, because Equifax repeatedly claimed that it had not received the documents. *See*, Exhibit I, fax cover and confirmation sheets.

Despite all Ms. Apodaca's efforts, following Equifax's investigation, Equifax continued to report the bankruptcy on Ms. Apodaca's credit report. *See*, Exhibit J, letter and redacted credit report. Ms. Apodaca hopes to talk to the Equifax employees that dealt with the BDVR form so she can determine the reasons that Equifax's system failed.

4. The Summaries

In Interrogatory No. 11, Ms. Apodaca requests that Equifax identify its employees who made entries in each "Comments" and "Consumer Comments" data field in Equifax's summaries of its investigations. These summaries provide an overview of actions Equifax took in response to each of Ms. Apodaca's disputes. Equifax produced numerous summaries, bates stamped EFX00075, EFX00082-EFX00083, EFX00095-EFX00102, EFX00109-EFX00111, EFX00114, EFX00119, EFX00128-EFX00130, EFX00135-EFX00136 and EFX00141-EFX00142. The entries in these data fields reveal valuable information concerning Equifax's investigation procedures. Ms. Apodaca seeks to speak to the employees who made these entries to help her prove the inadequacy of Equifax's investigation procedures.

The Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.* ("FCRA"), requires Equifax to maintain reasonable investigation procedures to "assure maximum possible accuracy" of the consumer credit information it reports. *See*, 15 U.S.C. §§ 1681e(b) and 1681i. The FCRA requires Equifax to "review and consider all relevant information submitted by the consumer" in

support of the consumer's disputes. *See*, 15 U.S.C. § 1681(a)(4). The FCRA also requires Equifax to "promptly provide to the person who provided the information in dispute all relevant information regarding the dispute that is received by the agency from the consumer." *See*, 15 U.S.C. § 1681(a)(2)(B).

Equifax repeatedly claimed to Ms. Apodaca that it had lost documents Ms. Apodaca sent to Equifax in support of her disputes. Equifax repeatedly claimed that it had not received the Bankruptcy Court documents. Also, Ms. Apodaca disputed a derogatory Citizens Bank of Las Cruces account that Equifax listed on her credit report. Ms. Apodaca faxed Equifax a letter from Citizens Bank of Las Cruces dated August 12, 2003, that stated:

This will confirm that Victoria Apodaca, social security # [redacted]-2469 and date of birth 11/19/54 has never received any credit from Citizens Bank of Las Cruces. There is a Victoria L. Apodaca that had a loan with Citizens Bank and filed Bankruptcy, but these two ladies are 2 different people.

See, Exhibit K, letter. In one of the summaries, the Equifax employee made the following entry in a single Comments data field concerning the Citizens Bank letter:

Pls advise cons fax still not received . . . recv does from Citizens - not needed.
Being deleted.

See, Exhibit L, summary. Ms. Apodaca seeks to speak to the employees who made comments like this comment, that demonstrate the failure of Equifax to comply with the requirements of the FCRA. In order to do so, she needs Equifax to identify the employee that made each entry in the summaries.

5. The "Glenn King" Letters

In Interrogatory No. 12, Ms. Apodaca asks Equifax to identify "all persons who participated in any action that resulted" in the "Glenn King" letters. Equifax reported the results

of Ms. Apodaca's numerous disputes in letters signed by "Glenn King." *See*, brief in chief, Exhibit D, letters. Ms. Apodaca cannot depose Mr. King, because Equifax admits in its discovery responses that Mr. King "was a person who worked for Equifax but is now deceased." *See*, brief in chief, Exhibit A, responses. Again, these employees are key witnesses because they are the employees who dealt directly with Ms. Apodaca's disputes.

6. Equifax Refuses to Provide the Information Needed to Track Down and Depose Key Witnesses

In Equifax's response brief, it claims that it has "already identified the names and locations of the operators involved in Plaintiff's reinvestigations." *See*, Equifax's brief, p. 2. This statement is grossly misleading. Equifax has provided a partial list of employees who worked on Ms. Apodaca's disputes. It failed to state which employees were involved with which key document and it failed to state which employees made which entry in the data fields shown in the summaries. It failed to state whether the persons it has named are still employed by Equifax. It refuses to provide location information -- all known residential addresses and telephone numbers and date of birth -- for former employees. For the employees it did name, all but one are located outside of the United States and, with the exception of the single United States employee, it provided only the employee's home country or, in one case, city and country. *See*, Exhibit M, letter.

B. Equifax Still Refuses to Provide Information About Equifax's Affirmative Defenses

In Interrogatory No. 15, Ms. Apodaca asks Equifax to describe the basis of each affirmative defense it raises. In Equifax's response brief, it promises to one day provide this information. *See*, Equifax's brief, p. 5. It still has not done so.

C. Equifax Still Refuses to Produce Frozen Data Scans

In Request for Production No. 1, Ms. Apodaca asks Equifax to produce documents “that comprise a complete audit trail” of her credit file. Included in this request are “frozen data scans” – documents that show the state of her credit file at discrete intervals of time. Equifax admits it can produce frozen data scans. *See*, Equifax’s brief, p. 6.

Equifax argues that it has been ready and willing to produce the frozen data scans, but Ms. Apodaca never responded to its request that she identify the time period for which she requests the scans. *See*, Equifax’s brief, p. 6. This statement is false. In a letter dated December 22, 2004, Ms. Apodaca limited her request to April 2003 until the present. *See*, Exhibit N, letter.

In Equifax’s response brief, it states that frozen data scans cost \$90 per scan. Ms. Apodaca notes that Equifax provides no information concerning the costs that make up the \$90 amount and provides no supporting document or testimony that verifies this amount. *See*, Equifax’s brief, p. 6. Nevertheless, in light of this information, Ms. Apodaca agrees to further limit her request to April 2003 until September 2004. April 2003 is one month before her problems with her Equifax report began and should show whether a specific event triggered Equifax’s mixing of her file with the file of another person. Equifax’s investigation activities lasted through September 2004, the date of the last credit report that Equifax produced in response to Ms. Apodaca’s disputes. To the extent that the cost to produce these scans is significant, the fault belongs to Equifax, who failed to perform a reasonable investigation and remove the inaccurate and damaging credit information throughout the course of these months.

D. Equifax Still Refuses to Produce Its Maintenance Transaction Files and Documents Concerning Its April 2004 Investigation of the Discover Account

In Requests for Production Nos. 3 and 4, Ms. Apodaca asks Equifax to produce documents that concern its investigations in response to her disputes. Equifax should have documents related to each summary it has already produced. *See, infra*, § I(A)(4). The summaries clearly summarize other documents - the maintenance transaction files. Equifax refuses to produce these documents and argues that it "does not know what Plaintiff is requesting." *See*, Equifax's brief, p. 6.

Evan Hendricks, Ms. Apodaca's expert, has had experience with these documents. The maintenance transaction should include programming codes that indicate whether Equifax knew it was dealing with a mixed file at the time of its investigations. *See*, Exhibit O, Mr. Hendricks affidavit.¹ Other Equifax documents show that it knew it was dealing with a mixed file. *See*, Exhibit P, letter. If Equifax knew it was dealing with a mixed file at the time of its investigations, for Equifax to have reasonable investigation procedures, it should take account of this fact and altered its investigation accordingly. The maintenance transaction files will help Ms. Apodaca show that Equifax's investigation procedures are not reasonable.

Also, as shown above, *see, infra*, § I(A)(2), Equifax has also withheld documents concerning its April 2004 investigation of the Discover account. These documents are also responsive to Requests for Production Nos. 3 and 4.

E. Equifax Still Refuses to Produce Its Unredacted FCRA Compliance Manual

In Request for Production No. 7, Ms. Apodaca asks Equifax to produce documents that

set forth its FCRA compliance procedures. Equifax produced its FCRA compliance manual, but heavily redacted the most relevant sections and completely removed other relevant sections. In Equifax's response brief, it promises to produce an unredacted compliance manual once this Court enters the stipulated protective order. *See*, Equifax's brief, p. 6. This Court entered the stipulated protective order on January 25, 2005. *See*, Docket No. 43. Equifax still has not produced the unredacted compliance manual.

F. Equifax Still Refuses to Provide Its Contract with Discover

In Request for Production No. 8, Ms. Apodaca asks Equifax to produce "all documents that define the contractual relationship between Equifax and Discover" for the relevant time period. In Equifax's response brief, it promises to one day provide the contract with pricing information redacted. *See*, Equifax's brief, p. 6. In a letter dated December 22, 2004, Ms. Apodaca accepted "Discover's offer to produce contract documents with pricing information redacted." *See*, Exhibit N, letter. Equifax still has not produced the contract.

II. Ms. Apodaca Is Entitled to Information About Other Similar Claims Against Equifax

In Interrogatories No. 7, Ms. Apodaca requests information concerning lawsuits and administrative complaints involving claims similar to hers, made by others against Equifax. Equifax argues that the request is unduly burdensome. It argues that the request would include meritless complaints and that nearly every lawsuit against it involves a claim that it is reporting accounts that do not belong to that consumer. *See*, Equifax's brief, p. 3.

Ms. Apodaca is not interested in presenting witnesses who filed meritless complaints, but has no way to determine which witnesses she will present until she receives the information

requested in Interrogatory No. 7. Moreover, if numerous consumers have sued Equifax concerning its reporting of accounts that do not belong to the consumer, this evidence is highly relevant to support Ms. Apodaca's complaint for punitive damages. In *BMW of North America, Inc. v. Gore*, 517 U.S. 559, 578, the United States Supreme Court made clear that "repeated misconduct is more reprehensible than an individual instance of malfeasance" and is precisely the evidence a plaintiff must present to support a significant punitive damages award.

Equifax ignores *BMW of North America, Inc. v. Gore* and its progeny and argues that *Salmeron v. Highlands Ford Sales, Inc.*, 220 F.R.D. 661, 670 (D. N.M. 2003) supports its refusal to provide information about other similar claims. Equifax misleads the Court about the holding of *Salmeron*. See, Equifax's brief, p. 4. In *Salmeron*, this Court determined that evidence that other customers had suffered similar treatment by the defendant "is highly relevant." *Id.* at 670. Accordingly, in *Salmeron*, this Court reversed the magistrate's restrictions on the plaintiff's contact with other customer witnesses. *Id.* at 671.

Equifax also argues that Ms. Apodaca could track down this information herself. See, Equifax's brief, p. 5. Equifax ignores that it would take Equifax much less effort to produce information about claims brought against it than the effort that would be required from Ms. Apodaca to conduct a jurisdiction-by-jurisdiction search of lawsuits brought against Equifax, plus inquiries to the Attorneys General of the 50 states and an inquiry to the FTC. Equifax does not dispute that it employs lawyers that keep detailed records of all the claims brought against it.

Equifax argues that it should only be required to provide information about FCRA judgments against it in New Mexico, or only FCRA judgments nationwide. See, Equifax's brief, p. 5. Ms. Apodaca expects that Equifax's proposed limitation restricting the interrogatory to

New Mexico judgments only would produce no information or very little information about other similar claims. Equifax's does not employ different FCRA standards for New Mexico the FCRA applies nationwide so this limitation would only serve to hide highly relevant information from Ms. Apodaca. The proposed limitation restricting the interrogatory to nationwide judgments only is similarly over protective. As this Court undoubtedly knows, nearly all cases settle, so, again, this limitation would only serve to hide highly relevant information.

III. Ms. Apodaca Tried to Obtain Voluntary Supplemental Responses from Equifax Prior to Filing Her Motion to Compel

Equifax complains that Ms. Apodaca "did not give Equifax a single opportunity" to supplement its responses prior to filing her motion to compel. *See*, Equifax's brief, p. 2. Yet Equifax admits that Ms. Apodaca sent it a five page single-spaced letter dated December 14, 2004, that included a request that Equifax supplement its answers and cited extensive case law that supported Ms. Apodaca's requests. Ms. Apodaca followed up with a December 15 letter. In these letters, Ms. Apodaca requested supplemental answers by December 21, 2004, because "[l]ocal rules requires Ms. Apodaca to file her motion to compel within 20 days of Equifax's objections." *See*, brief in chief, Exhibit B, letters. Equifax chose not to respond until the 20 days had run. Ms. Apodaca filed her motion on the 20th day. *See*, Docket Nos. 31 and 32.

Moreover, Equifax still refuses to provide information and produce documents requested by Ms. Apodaca in her discovery requests, despite repeated promised to provide the information and produce the documents. Equifax's actions show that it will not provide the withheld information or produce the withheld document until ordered by this Court to do so.

IV. Conclusion

Ms. Apodaca requests that the Court order Equifax to provide full and complete discovery responses to Interrogatories Nos. 7, 8, 9, 10, 11, 12 and 15 and Requests for Production Nos. 1, 3, 4, 7 and 8, within 10 days of the order.

Respectfully submitted,

FEFERMAN & WARREN, Attorneys for Plaintiffs



ROB TREINEN
300 Central, S.W., Suite 2000 East
Albuquerque, New Mexico 87102
(505) 243-7773
(505) 243-6663 (fax)

I CERTIFY that a true and correct copy of the foregoing was served upon all counsel of record by mail on the 7 day of February 2005.



ROB TREINEN

1. Mr. Hendrick's original affidavit is in transit. Ms. Apodaca files a copy of the affidavit at this time, and will provide the original to the court upon receipt of the original.

AUTOMATED CONSUMER DISPUTE VERIFICATION

EQUIFAX CREDIT INFORMATION SERVICES

155BB03747-

EQUIFAX CREDIT INFORMATION SERVICES
P.O. BOX 740243
ATLANTA, GA 30374-0243

BELONGS TO ANOTHER INDIVIDUAL W/ SAME NAME

Consumer may be also listed under the names of:

DISCOVER CARD
Discover Financial
248 Chapman Rd
Newark, DE 19702-5425

Member: 155BB03747
Control: 3299004844-049
Date: 10/27/2003

Reported Account Number: 6011009440181373
Corrected Account #: 6011009440181373
To comply with F.C.R.A please respond by: 11/03/2003

Name: APODACA, VICTORIA

Addr: PO BOX 1423

MORIARTY, NM 87035

Prev: PO BOX 1423

MORIARTY, NM 87035

SSN: [REDACTED] DOB/Age: 07/20/1951 Phone:

AKA/FN:

Same

☐ Name: APODACA, VICKY L

☐ Addr: 517 E LUCERO AVE

☐ Prev: LAS CRUCES, NM 88001

SSN: DOB/Age: Phone:

AKA/FN:

Please check the "Same" box for each identification item on the CDV which is identical to your records, or provide differing information in boxes below.

TRADE HISTORY MONTHS 1-12	TRADE HISTORY MONTHS 13-24	TRADE HISTORY MONTHS 25-36	TRADE HISTORY MONTHS 37-48	TRADE HISTORY MONTHS 49-60	TRADE HISTORY MONTHS 61-72	TRADE HISTORY MONTHS 73-84
DATE OPEN	TYPE ACCT & NIP	NARRATIVES				
06/1998	Z	ACCOUNT CLOSED AT CONSUMER'S REQUEST.				
BALANCE OWING	AMOUNT PAID DUE	BANKRUPTCY CHAPTER 7.				
ORIGINAL CHARGE OFF AMOUNT	HIGH CREDIT					
CREDIT LIMIT	ACTUAL PAY AMOUNT	SCHEDULED PTMT AMOUNT	LAST PAY DATE	1ST DELINQUENCY DATE	DATE MAJOR DEL REPORTED	DATE REPORTED
						08/2003
ECOA	10 OF 100	30 DAY	60 DAY	90 DAY	12/1999	
I					Closed	
DEFERRED PAYMENT START DATE	BALLOON PAYMENT AMOUNT	BALLOON DUE DATE	ACTIVITY DESIGNATOR	ACCOUNT TYPE	PURCHASE IND	PURCHASED FROM / SOLD TO / ORIG CREDITOR NAME
						CREDITOR CLASSIFICATION

Response/Reason(s) for change: MODIFY ACCOUNT AS INDICATED PER GRANTOR (E-OSCAR).

EFX00018
Apodaca

October 9, 2003

P. O. Box 1423
Moriarity, NM 87035-1423

Equifax Information Services, LLC
P. O. Box 105518
Atlanta, GA 30348

RE: Confirmation no. 321926615

Dear Sir/Madam:

I have been contacting you repeatedly since June to get my credit report corrected. You are reporting incorrect information that belongs to Victoria Lopez Apodaca.

My birth date is 11/19/54. My Social Security number is [REDACTED]-2469. Above is my current address. I am enclosing a copy of my Social Security Card and my driver's license, which shows my birth date. You are incorrectly reporting my birth date as 7/20/51. I have previously provided you with both my driver's license and my Social Security card, but you are still reporting my birth date incorrectly.

In addition, you are incorrectly reporting that I filed for bankruptcy in New Mexico. I have never filed for bankruptcy. I am enclosing proof from the bankruptcy court that this bankruptcy is not mine. I have previously provided you with this proof that the bankruptcy is not mine, but you are still reporting it on my credit report.

Finally, you are also reporting the following items which are not mine:

- Direct Merchants, account number 5458004502697988
- Discover Financial, account number 6011009440181373
- GMAC, account number 21218932958

I have previously disputed these items with you over the telephone, but you continue to report them as mine.

Please correct my birth date, remove the bankruptcy and the above items from my credit report. Thank you.

Sincerely,

Victoria Apodaca
Victoria Apodaca



**United States Bankruptcy Court
District of New Mexico
REQUEST FOR SEARCH OF BANKRUPTCY RECORDS**

Instructions: Type the individual or business name (and the social security number or the tax I.D. number, if known) in the blocks below. **A fee of \$20.00 is due in advance for each name searched.**

Name of individual or business that is the subject of the search:

Victoria Apodaca

Social Security No. or Employer Tax I. D. No. of subject of the search:

[REDACTED] 2464

Check the boxes below for the type of search requested:

- ☐ pending or closed bankruptcy cases in the District of New Mexico from approximately November 1, 1950, to May 25, 1987. There is a \$20.00 search fee due to search manual records (alphabetical index cards by debtor name) of bankruptcy filings during this time period.
- ☐ pending or closed bankruptcy cases in the District of New Mexico from May 26, 1987, to the present. There is a \$20.00 search fee due *only if* you require the findings documented on this form. **Note: If findings do not need to be documented, you may call the clerk's office at 505-348-2500 for the information at no charge.**
- ☒ pending or closed adversary proceedings in the District of New Mexico from July 1, 1991, to the present. There is a \$20.00 search fee due *only if* you require the findings documented on this form. **Note: If findings do not need to be documented, you may call the clerk's office at 505-348-2500 for the information at no charge.**
- ☐ other [describe briefly] _____

Name, address, and phone number of person requesting the search: Victoria Apodaca, PO Box 1425 Moriarty, NM 87035

CERTIFICATE OF SEARCH

I certify the following results of a diligent search of the records of the court:

- A. Bankruptcy Cases:** 1. ☒ None found 2. ☐ Case No. _____
☐ Filed on _____ ☐ Voluntary ☐ Involuntary ☐ Pending ☐ Closed on _____
☐ Discharge granted _____ or denied _____ or case dismissed _____
- B. Adversary Proceedings:** 1. ☐ None found 2. ☐ Subject is party to Adversary Proceeding Number _____ in re _____ v. _____ filed _____
☐ Pending ☐ Closed on _____ Related Bankruptcy Case No. _____

Amount paid \$ 20.00

Receipt # 9794

Search certified through date: 5/10/05 at time: 9:28 am

Clerk of Court

By: Rosanne P. [Signature]
Deputy Clerk

U.S. Bankruptcy Court
DISTRICT OF NEW MEXICO (Albuquerque)

Bankruptcy Petition #: 01-10123

Date filed: 1/8/01

Date terminated: 4/30/01

Assigned to: Mark B. McFeeley

Chapter 7 voluntary individual no asset joint

* Attorneys *

GILBERT APODACA
517 East Lucero
Las Cruces, NM 88001
SSN: [REDACTED]-9911
* Debtor *

Oralia B Franco
2000 E Lohman Ste B
Las Cruces, NM 88001-3100
505-647-2757
FTS 647-2754

VICKY L APODACA
517 East Lucero
Las Cruces, NM 88001
SSN: [REDACTED]-2649
* Debtor *

Oralia B Franco
(See above)

PHILIP J. MONTOYA
PO Box 159
Albuquerque, NM 87103
* Trustee *

* Attorneys *

CITIZENS BANK OF LAS CRUCES
c/o Atty Joyce A. Montes
PO Box 2769
Las Cruces, NM 88004
* Creditor *

Joyce A Montes
PO Box 2769
Las Cruces, NM 88004-2769
505-524-9617

Proceedings include events between 1/1/01 and 8/11/03.

1/8/01 1 Voluntary Petition Filed Under Chapter 7 all schedules and
statements. (Filing Fee \$ 200.00 Receipt # 292; The debtor
signature page (see ref column, voluntary petition document
#1) was submitted in error. Amended signature page to
follow. (rose) [EOD 01/09/01] [Edit date 01/09/01]

1/8/01 2 Disclosure of Compensation By Attorney For Debtor. (rose)
[EOD 01/09/01]

Proceedings include events between 1/1/31 and 8/11/03.

01-10123 In re: Gilbert Apodaca and Vicky L Apodaca

1/8/01 3 Statement of Intention for image see last page of voluntary petition, document #1. (rose) [EOD 01/09/01]

1/8/01 -- First Meeting of Creditors Scheduled For 1:00 2/21/01 At LC: Holiday Inn - 201 E. Univ Last Day To Oppose Discharge: 4/23/01 (rose) [EOD 01/09/01]

1/8/01 -- ACE Fee Status Confirmed (rose) [EOD 01/09/01]

1/8/01 -- Trustee Philip Montoya appointed. (rose) [EOD 01/09/01]

1/10/01 -- 341 Notice requested to be mailed from Bankruptcy Noticing Center. (mark) [EOD 01/10/01]

1/12/01 4 Courts BNC Certificate of Service Re: [0-0] 341 Notice . # of Notices: 18 were sent out. (cert) [EOD 01/12/01]

2/27/01 5 Report of Trustee from 341 Meeting of Creditors - Concluded. (mark) [EOD 02/27/01]

2/27/01 6 Trustee's Report of No Distribution and Notice of Abandonment of Assets. SEE DOC #5 FOR IMAGE. (mark) [EOD 02/27/01]

3/2/01 7 Notice of Entry of Appearance And Request For Notice By Joyce A. Montes for Creditor Citizens Bank of Las Cruces. (isab) [EOD 03/05/01]

4/30/01 3 Order Discharging Debtor Vicky L Apodaca, Debtor Gilbert Apodaca (mdoc) [EOD 04/30/01]

4/30/01 -- Case Closed. (mdoc) [EOD 04/30/01]

4/30/01 9 Final Decree (mdoc) [EOD 04/30/01]

Is your **RETURN ADDRESS** completed on the reverse side?

SENDER:

- ☐ Complete item 1, item 2, item 3 and item 4.
- ☐ Complete item 3, item 4 and item 5.
- ☐ Item 3 and item 4 are not required. Item 5 is required for return to sender (not for return to sender).
- ☐ Address the item to the person or the business to which it is addressed.
- ☐ Item 3 and item 4 are not required. Item 5 is required for return to sender (not for return to sender).
- ☐ Item 3 and item 4 are not required. Item 5 is required for return to sender (not for return to sender).

3. Article Addressed to:

*66 Box 1055
Arlington, VA 22204*

4. Service Type

☐ Registered ☐ Certified

☐ Express Mail ☐ Insured

☐ Registered Mail ☐ COD

5. Received By (Print Name)

6. Signature (Addressee or Agent)

[Signature]

7. Date of Delivery

8. Addressee's Address (Only if not stated and item is paid)

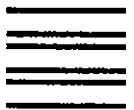
PS Form 3811, September 1993

7002 2410 0002 82

Domestic Return Receipt

Thank you for us!

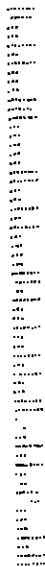
Postal Service



First-Class Mail®
Postage & Fees Paid
USPS
Permit No. G-10

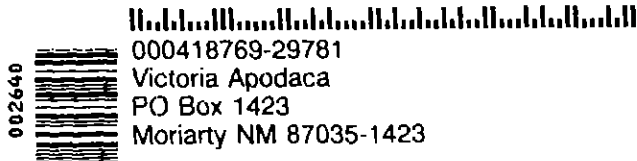
• Print your name, address, and ZIP Code in this box •

Victoria Apodaca
P.O. Box 1423
Tucson, AZ 85710



November 6, 2003

P. O. Box 105518
Atlanta, GA 30348



Dear Victoria Apodaca:

Below are the results of your request for Equifax to reinvestigate certain elements of your Equifax credit file. Equifax contacted each source directly and our investigation is now completed. Enclosed is an updated copy of your credit file.

Results of Your Investigation (For your security, the last 4 digits of your credit account number(s) have been replaced by *)

We have reviewed the identification information. The results are:

Name: Victoria Apodaca
Ssn: [REDACTED] 2469 Birthdate: 11/19/1954
Your date of birth has been added/updated.

We have reviewed the former address. The results are:

PO Box 1423
Moriarty NM 87035
MIXED

This information was duplicated, and therefore it has been deleted.

We have reviewed the bankruptcy information. The results are:

US District Bankruptcy CT O Account Number:
421 Gold Ave SW 0110123-DSP-04/01-VER-09/03
Albuquerque, NM 87102-3254
Equifax verified that this item belongs to you.

We have researched the credit account. The results are:

Direct Merchants Bank Account Number: 545800450269*
PO Box 29468
Phoenix, AZ 85038-9468
This item has been deleted from the credit file.

We have researched the credit account. The results are:

Discover Card Account Number: 601100944018*
12 READS Way
New Castle, DE 19720-1649
Phone Number: (800) 347-2683

Equifax verified that this item belongs to you. Additional information has been provided from the original source regarding this item. See enclosed credit file.

(Continued on next page)



Company Name	Account Number	Date Acct Opened	High Credit	Credit Limit	Terms Duration	Terms Frequency	Months Reviewed
Discover Financial	601100944018*	06/1998					
Items listed to the right are as of the Date Reported	Balance	Past Due	Last Pay Date	Actual Pay Amt.	Sched. Pay Amt	Activity Description	
	Date of Last Activity	Date Maj. Del First Reported	Charge Off Amt	Deferred Pay Start Date	Balloon Pay Start Date	Balloon Pay Start Date	Creditor Classification
	Date Acct. Closed						
11/2003	12/1999						

Current Status - Charge Off; Type of Account - Installment; Whose Account - Individual Account;

Additional Information: ACCOUNT CLOSED AT CONSUMER'S REQUEST

CHARGED OFF ACCOUNT

Company Address : 12 Reads Way New Castle DE 19720-1649 Phone: (800) 347-2683

(Continued on next page)

**Victoria Apodaca
PO Box 1423
Moriarty, NM 87035**

April 2, 2004

Via Certified Mail No. 7001 2510 0008 8965 1441

Equifax Information Services, LLC
PO Box 105518
Atlanta, GA 30348

**Re: Victoria Apodaca
SSN: [REDACTED]-2469
DOB: 11/19/54**

To Whom It May Concern:

Equifax is reporting items on my credit report that are not mine. These accounts belong to Victoria Lopez Apodaca, who lives in Las Cruces, NM and has a different social security number. Victoria Lopez Apodaca's social security number is [REDACTED]-2649.

Equifax is incorrectly reporting that I filed for bankruptcy in New Mexico. I have never filed for bankruptcy. Please find enclosed proof from the bankruptcy court that the bankruptcy is not mine. I have previously provided you this proof, but you are still reporting the bankruptcy on my credit report.

Equifax is also reporting the following accounts, which are not mine: Discover Financial Account No. 6011009440181373 and GMAC account no. 21218932958. I previously disputed these items, but Equifax continues to report them as mine.

Please delete the bankruptcy and the Discover Financial and GMAC accounts from my credit report. Please provide me with the results of your reinvestigation.

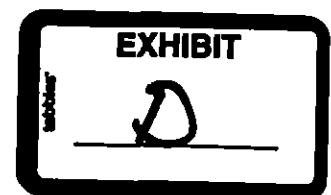
Thank you.

Truly yours,

Victoria Apodaca

Victoria Apodaca

cc: Discover Financial (Via Certified Mail No. 7001 2510 0008 8965 1342)
GMAC (Via Certified Mail No. 7001 2510 0008 8965 1335)



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Equifax Info Services
PO Box 105518
Atlanta, GA 30348

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X
☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

☐ Yes
☐ No

3. Service Type

☒ Certified Mail
☐ Registered
☐ Insured Mail
☐ Express Mail
☐ Return Receipt for Merchandise
☐ C.O.D.

4. Restricted Delivery? (Extra fee)

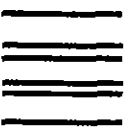
☐ Yes
 2. Article Number
 (Transfer from service label) 7001 2510 0008/8965 1441

PS Form 3811, August 2001

Domestic Return Receipt

2ACPH-03 11-0081

UNITED STATES POSTAL SERVICE

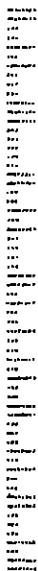


First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Victoria Apodaca
PO Box 1423
Monterey, NM 87035

1 A

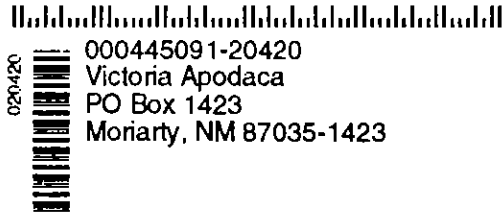


P. O. Box 105518
Atlanta, GA 30348

April 29, 2004



To Start An Investigation, Please Visit Us At:
www.investigate.equifax.com



Dear Victoria Apodaca:

Below are the results of your request for Equifax to reinvestigate certain elements of your Equifax credit file. Equifax contacted each source directly and our investigation is now completed. Enclosed is an updated copy of your credit file.

Results of Your Investigation (For your security, the last 4 digits of your credit account number(s) have been replaced by *)

>>> We have reviewed the bankruptcy information.

Account: 0110123
US Distric Bankruptcy CT O
421 Gold Ave SW
Albuquerque, NM 87102-3254

The results are: This item has been deleted from the credit file.

>>> We have researched the credit account.

Account: 601100944018*
Discover Card
12 READS Way
New Castle, DE 19720-1649
Phone: (800) 347-2683

The results are: Equifax has verified that this item has been reported correctly. Equifax verified that this item belongs to you. If you have documents that release you from this obligation, please forward a copy to us.

>>> We have researched the credit account.

Account: 2121893*
GMAC
PO Box 12699
Glendale, AZ 85318-2699
Phone: (800) 200-4522

The results are: This item has been deleted from the credit file.

Thank you for giving Equifax Information Services the opportunity to serve you.

Equifax Information Services LLC
P.O. Box 740256
Atlanta, GA 30374-0256



(Continued on next page)

Discover Financial Services 12 Reads Way New Castle DE 19720-1649 : (800) 347-2663

Account Number: 601100944018* Date Opened: 06/1998 High Credit Credit Limit Term: Duration Terms Frequency Mths Revd Activity Description Creditor Classification

Trans As of Date	Balance Amount	Amount Due	Date of Last Payment	Actual Payment Amount	Scheduled Payment Amount	Date of Last Activity	Date Mail Del. 1st Field	Charge Off Amount	Deferred Pay Start Date	Balance Pay Amount	Balance Pay Start Date	Date Closed
04/2004						12/1999						12/2000

Current Status - Account Included In Bankruptcy : Type of Loan - Credit Card : Whose Account - Individual Account : ADDITIONAL INFORMATION - Bankruptcy Chapter 7 : Credit Card :

Authorized Name **VERNA WRIGHT**

Tel # **(302) 288 2556**

When you sign this form, you certify that you have verified the accuracy of the entire item in compliance with all legal requirements, and your computer and/or manual records will be adjusted to reflect changes noted above.

DISC 00005

Equifax**BANKRUPTCY DISPUTE VERIFICATION REQUEST****Control#: 3251030082-011 Receive Date: 09/02/2003 Date Sent: 09/09/2003**

To prevent deletion of this item, please mail your response by 09/22/2003 to:

**EQUIFAX CREDIT INFORMATION SERVICES
P.O. BOX 740243 ATLANTA, GA 30374-0243**

This consumer may be also listed under the names of:

**TO: US DISTRICT BANKRUPTCY COU - 291VF00029
NDR COURIER WILL PICK UP
ALBUQUERQUE, NM 87102****PLEASE CONFIRM OR CORRECT I.D. INFORMATION**

APODACA, VICTORIA

PO BOX 1423

MORIARTY, NM 087035-0000

PO BOX 1423

MORIARTY, NM 087035-0000

[REDACTED]-2469 07/20/1951

Same:

NM- ☐

NM-

Correction:

APODACA, VICKY L

CA- ☐

CA-

517 EAST LUCERO

LAS CRUCES, NM 088001-0000

FA- ☐

FA-

000000-0000

SS- ☐

SS-

[REDACTED]-2469

THE CONSUMER STATES (AS BASIS FOR DISPUTE):

* NOT HIS/HERS. PLEASE PROVIDE COMPLETE ID

FOLLOWING IS THE MANNER IN WHICH YOUR REPORTED INFORMATION IS REFLECTED:**Case#:**0110123--DSP-04/01-VER-08/03**Date Filed:** 01/2001**Intent:** DISCHARGED CH-7**Type:** PERSONAL**Filed:** JOINT**Assets:** 80305**Liabilities:** 1050**Exempt Amount:****PLEASE PROVIDE UPDATE FOR FOLLOWING ITEMS:****Case#:**0110123--DSP-04/01-VER-08/03**Date Filed:** 01/2001**Intent:** DISCHARGED CH-7**Type:****Filed:****Assets:****Liabilities:****Exempt Amount:****EXHIBIT****G****SPECIAL INSTRUCTIONS TO ECIS: NAME: NATIONAL DATA RETRIEVAL. PHONE #: 7703460883**

* BANKRUPTCY DISCHARGED

* DISCHARGED: 4-30-01; JOINT DEBTOR: GILBERT APODACA 585-46-9911

**EFX00015
Apodaca**

Confirmation # 321830925

Attention: Sonya

I am Faxing the petition and bankruptcy record of Victoria Lopez Apodaca [REDACTED]-2649. Hopefully this will take care of my credit report that I am not this Victoria Lopez Apodaca. I am Victoria Apodaca [REDACTED]-2469. Please remove this from my credit file ASAP. As I have stated in my last 3 letters to Equifax this other person is making it difficult for me to purchase a home, that were suppose to be moving into Friday Aug. 15th.

Sonya, I have been trying to clear my credit file with Equifax since May. I have send in letters, verifications (drivers license, pay stubs, social security number etc.) and this matter still isn't cleared up. I am hoping you can take care of this matter ASAP. Please give me a call at (505) 286-0217 when you have received this fax and have cleared it from my file. The underwriter for the home is just waiting to have this cleared, so we can sign the paperwork and close the purchase of our home by this Friday. Thank you Sonya!

Sincerely,



Victoria Apodaca
PO Box 1423
Moriarty, NM 87035



PO Box 2000
Moriarty, NM 87035
Phone: 505-832-4254
Fax: 505-832-4939

Moriarty High School

Fax

To: *Bev. Supervisor* ^{Team C} From: *Victoria Hernandez*
Fax: *1-866-838-1020* Date: *8/14/03*
Phone: *505-286-0217* Pages: *4*
Re: *321820925* CC:

☒ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

•Comments:

EXHIBIT

I

TRANSMISSION INFORMATION REPORT

TIME : 09/14/2003 09:31
NAME :
FAX :
TEL :

DATE, TIME	09/14 09:31
FAX NO./NAME	18668381029
DURATION	00:00:00
PAGE(S)	00
RESULT	BUSY
MODE	STANDARD

BUSY: BUSY/NO RESPONSE

TRANSFERRED TO TELETYPE UNIT

TIME : 08/14/2003 13:21
NAME :
FAX :
TEL :

DATE, TIME
FAX NO. / NAME
DURATION
PAGE(S)
RESULT
MODE

08/14 12:53
13668781020
00:01:45
34
OK
STANDARD
ECM

PO Box 2000
Moriarty, NM 87035
Phone: 505-832-4254
Fax: 505-832-4939

Moriarty High School

Fax

To: B.V. Supervisor - Team C From: Victoria Lyndeen
Fax: 1-866-838-1020 Date: 3/15/03
Phone: 505-286-0217 Page: 4
Re: 321830925 CC:

☒ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

•Comments:



TIME : 08/18/2003 16:21
NAME :
FAX :
TEL :

DATE.TIME	08/18 16:19
FAX NO./NAME	18669381020
DURATION	00:01:41
PAGE(S)	34
RESULT	OK
MODE	STANDARD
	ECM

September 18, 2003

P. O. Box 105518
Atlanta, GA 30348



000411100-41860
Victoria Apodaca
PO Box 1423
Moriarty NM 87035-1423

Dear Victoria Apodaca:

Below are the results of your request for Equifax to reinvestigate certain elements of your Equifax credit file. Equifax contacted each source directly and our investigation is now completed. Enclosed is an updated copy of your credit file.

Results of Your Investigation (For your security, the last 4 digits of your credit account number(s) have been replaced by *)

We have reviewed the bankruptcy information. The results are:

US Distric Bankruptcy CT O

Account Number:

0110123-DSP-04/01-VER-08/03

421 Gold Ave SW

Albuquerque, NM 87102-3254

Equifax verified that this item belongs to you.

Thank you for giving Equifax Information Services the opportunity to serve you.

Equifax Information Services LLC

P.O. Box 740256

Atlanta, GA 30374-0256

(Continued on next page)

Page 1 of 2





Please address all future correspondence to:

Equifax Information Services LLC

P. O. Box 105518

Atlanta, GA 30348

Phone: (888) 873-5427

M - F 9:00am to 5:00pm in your time zone.

CREDIT FILE **September 18, 2003**
Confirmation # **3251030082**

In order to speak with a Customer Service Representative regarding the specific information contained in this credit file, you must call **WITHIN 60 DAYS** of the date of this credit file **AND** have a copy of this credit file along with the confirmation number.

Personal Identification Information

(This section includes your name, current and previous addresses, and any other identifying information reported by your creditors.)

Name: Victoria Apodaca
 Social Security #: [REDACTED]-2469
 Date of Birth: July 20, 1951

Current Address: PO Box 1423, Moriarty, NM 87035

Previous Address(es): PO Box 1423, Moriarty, NM 87035

Last Reported Employment: MoriartyMunicipalSchool

Public Record Information

(This section includes public record items obtained from local, state and federal courts.)

Bankruptcy Filed 01/2001; US Distric Bankruptcy CT of NM; Case or ID Number - 0110123-DSP-04/01-VER-09/03
 Liabilities - \$1,050 ; Personal; Joint; Discharged Ch-7; Assets - \$80,305

Credit Account Information

(For your security, the last 4 digits of account number(s) have been replaced by *)

(This section includes open and closed accounts reported by credit grantors.)

Account Column Title Descriptions:

Company Name - The Company reporting the information. Account Number - The Account number reported by credit grantor Date Acct. Opened - The Date that the credit grantor opened the account. High Credit - The Highest Amount Charged Credit Limit - The Highest Amount Permitted Terms Duration - The Number of Installments or Payments Terms Frequency - The Scheduled Time Between Payments Months Reviewed - The Number of Months Reviewed Date Reported - The Month and Year of the Last Account Update. Balance - The Total Amount Owed as of the Date Reported. Past Due - The Amount Past Due as of the Date Reported Last Pay Date - The Date of Last Payment	Actual Pay Amt - The Actual Amount of Last Payment Sched Pay Amt - The Requested Amount of Last Payment Activity - The Most Recent Account Activity Date of Last Actvty - The Date of the Last Account Activity Date Maj Delq Rptd - The Date that the 1st Major Delinquency Was Reported Charge Off Amt - The Amount Charged Off by Creditor Deferred Pay Date - The Date that the Next Payment Has Been Moved To Balloon Pay Amt - The Amount of Final(Balloon) Payment Balloon Pay Date - The Date of Final(Balloon) Payment Creditor Class - The Classification that Creditor Falls Into Date Act Closed - The Date the Account was Closed
Account History Status Code Descriptions	2 : 30 - 59 Days Past Due 3 : 60 - 89 Days Past Due 4 : 90 - 119 Days Past Due 5 : Over 120 Days Past Due 7 : Included In Wage Earner Plan 8 : Repossession 9 : Charge Off Blank : No Data Available For That Month

(Continued on reverse)



August 12, 2003

RE: Victoria Apodaca

To whom it may concern:

This will confirm that Victoria Apodaca, social security # [REDACTED]-2469 and date of birth 11/19/54 has never received any credit from Citizens Bank of Las Cruces. There is a Victoria L. Apodaca that had a loan with Citizens Bank and filed Bankruptcy, but these two ladies are 2 different people. If I can be of further help please call me.

Sincerely,

A handwritten signature in black ink, appearing to read "Marilyn L. Vaughan". The signature is fluid and cursive.

Marilyn L. Vaughan
Collection Manager
505-647-4103

EXHIBIT

K

TEAM ID : 36A

ACRO MAINTENANCE TRANSACTION SUMMARY

Date Received: 08/06/2003
 Disclosure Type: Phone
 Priority Type: Other

Page: 1
 Date: 09/05/2003
 Control: #3218309250

ORG NM- APODACA, VICTORIA, LOPEZ
 UPD NM- APODACA, VICTORIA, *****
 ORG ID- -2469, 07/20/1951, .
 Comments-***RETURN TO MANUAL REVIEW DEPARTMENT*** ,G17,08/06/03
 DEL MID NM PER POL/CONS #505-286-0217/N FILE INFO:VICTORIA ,G17,08/06/03
 LOPEZ/SSN -2649/ADD DNC CA ,G17,08/06/03

Maintenance Action: No Action on This Segment
 Consumer Comments-
 YOUR NAME HAS BEEN UPDATED. YOU MAY WISH TO PROVIDE YOUR CREDIT GRANTORS WITH THE UPDATE.,G17,08/06/03

ORG CA- PO,BOX 1423,,MORIARTY,NM,87035,
 UPD CA- PO,BOX 1423,,MORIARTY,NM,87035,
 Comments-PLS ADVISE CONS FAX STILL NOT RECEIVED ,OM9,08/15/03
 I UPD TD DOB IN ACRO PER CONS AND PER DRVRS LIC RCVD ,P39,08/18/03
 RECVD DOCS FR CITIZENS - NOT NEEDED. BEING DELETED. SEE FA ,O18,08/21/03
 Maintenance Action: No Action on This Segment
 Consumer Comments-



EFX00095
 Apodaca



Suite 2800 1100 Peachtree St.
Atlanta GA 30309-4530
t 404 815 6500 f 404 815 6555
www.KilpatrickStockton.com

January 13, 2005

direct dial 404 815 6191
direct fax 404 541 4727
Cavcett@kilpatrickstockton.com

VIA FACSIMILE

Rob Treinen Esq.
Feferman & Warren
300 Central Avenue, S.W.
Albuquerque, NM 87102

Re: **Apodaca v. Discover Financial, et al**
Case No.: 04-cv-0717 MCA

Dear Mr. Treinen:

In response to your motion to compel, Equifax agrees to produce the following:

- 1) Equifax will provide its unredacted training manual pursuant to the protective order. I will sign the order and send it along with the training manual to you.
- 2) National Data Retrieval was purchased by ChoicePoint Inc., whose address is as follows: 1000 Alderman Drive, Alpharetta, Georgia, 30005, phone number: 770-752-6000.
- 3) Equifax did not say anything about requiring a protective order in order to produce the frozen scans. I asked you to tell me which months you feel are relevant so we can decide which months of frozen scans will be. I will then gladly order those frozen scans for you and produce them once I receive them from Equifax.
- 4) Equifax is still researching who and where a few of the operators are located. I have already provided you names and am now enclosing the location of each operator. Most of those individuals are not Equifax employees and Equifax has no duty to track them down and provide information regarding their whereabouts. That being said, Equifax is providing you the name of the company which employees each operator and their location. All Equifax employees can be reached via counsel. As for the rest:

Z58 - Denise Syborn--ACS employee, Jamaica

OB2- Cynthia Jonah--ICT employee, Riverside, Canada

ATLL1801 1904655.1

ATLANTA AUGUSTA CHARLOTTE LONDON RALEIGH STOCKHOLM WASHINGTON WINSTON-SALEM



Rob Treinen, Esq.
January 13, 2005
Page 2

Z60 Kerrin Bailey--Affiliated Computers Services, Inc. ("ACS") employee, Jamaica

X41- Nancy Krauth--Equifax employee, at 211 Perimeter Parkway, Atlanta, Georgia

Z10 Leann Williams--ACS employee, Jamaica

ZG7-Kyan Benjamin--ACS employee, Jamaica

ZE7 Troy James--ACS employee, Jamaica

ZK7- Jermain Lewis--ACS employee, Jamaica

T10 - Estaban Rodriguez--Equifax employee, Costa Rica

T15- Victor Solano--Equifax employee, Costa Rica

5) Equifax will provide additional responses regarding its affirmative defenses.

6) Equifax has provide all of its ACIS cases which comprise all maintenance sheets and transaction summaries. Equifax still has no idea what Plaintiff is talking about regarding its request. The information on the transaction summary sheets comes from CDV's that are sent to credit grantors. The CDV's have been provided to counsel.

The only outstanding issue for the judge is the names of all other lawsuits. I will address that issue in my response to your motion to compel. Other than that, I prefer not to waste the judge's time with the other items, so if you would agree to withdraw those items, I think the judge would be appreciative. I prefer only to respond to our outstanding issue of the other lawsuits. Please let me know if this is acceptable.

I also am responding to your settlement demand under separate cover. Please let me know if you have any questions or concerns.

Sincerely,


Camille W. Averett

CWA:smp

LAW OFFICES OF
FEFERMAN & WARREN

300 Central Avenue, S.W.
Suite 2000 East
Albuquerque, New Mexico 87102
consumer@nmconsumerwarriors.com

Richard N. Feferman
Susan M. Warren
Rob Treinen

Phone (505) 243-7773
Fax (505) 243-6663

December 22, 2004

Camille Averett
Kilpatrick Stockton LLP
1100 Peachtree Street, Suite 2800
Atlanta, Georgia 30309-4530

Re: *Apodaca v. Discover Financial Services, et al.*
U.S.D.C. No. CIV-04-0717 MCA/WDS

Dear Ms. Averett:

Thank you for your response to my letters of December 14 and 15, 2004. I had asked that you respond by December 21, 2004 because of the local rule that requires a motion to compel be filed within 20 days of service of objections. You did not respond until December 22, 2004. The motion to compel has already been filed.

In any event, Equifax has chosen to refuse most of Ms. Apodaca's requests for supplemental responses.

Equifax's suggested compromise concerning Interrogatory No. 7 is unacceptable. Equifax is a national credit reporting agency. The FCRA is a federal law. Equifax advances no rationale for its request to limit Interrogatory No. 7 to claims in New Mexico.

Concerning the identities of the employees who worked on Ms. Apodaca's disputes, Equifax has provided a list of names with a promise to provide additional names in the future. If any of these persons are former employees, please provide the information set forth in Ms. Apodaca's definition of "identify" which she included with her discovery requests. Also, please provide full contact information for National Data Retrieval.

Equifax promises to produce frozen data scans for relevant months involved in the lawsuit. Equifax demands a protection order prior to producing the scans. Ms. Apodaca previously sent a proposed protective order. Please let me know if Equifax will agree to this order. Once an order is entered, Ms. Apodaca requests that Equifax provide frozen scans for April 2003 until the present.



Camille Averett
December 22, 2004
Page 2

Equifax claims to be confused about Ms. Apodaca's claim that Equifax failed to produce documents responsive to Production Nos. 3 and 4. Please refer to Ms. Apodaca's motion to compel.

Ms. Apodaca requests a complete and unredacted copy of the Indicating Manual. Again, please refer to Ms. Apodaca's motion to compel.

Ms. Apodaca is willing to accept Discover's offer to produce contract documents between Equifax and Discover with pricing information redacted. Based on your December 22, 2004 letter, it appears that Equifax is willing to produce some contract documents, but intends to withhold others. Please clarify which documents Equifax intends to withhold.

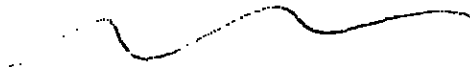
It appears that Equifax chooses to stand on its objection concerning Interrogatory #15. Apparently, this issue will need to be decided by the Court.

I understand that you will be out of the country until January 2, 2005. Ms. Apodaca will agree to an extension until January 14, 2005 for Equifax's response to the motion to compel.

Equifax seeks to take Ms. Apodaca's deposition on January 24, 2005. I will check with Ms. Apodaca on her availability. I am not available that afternoon, but am available the morning of January 24.

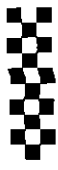
Thank you.

Truly yours,



Rob Treinen

RT:nir



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

VICTORIA APODACA,

Plaintiff,

v.

No. 04-CV-717 MCA/WDS

DISCOVER FINANCIAL SERVICES and
EQUIFAX INFORMATION SERVICES LLC,

Defendants.

AFFIDAVIT OF EVAN HENDRICKS

State of Maryland

) ss.

County of Montgomery

Being first duly sworn, affiant hereby deposes:

- 1 I have been retained as Plaintiff Victoria Apodaca's expert witness.
- 2 Since 1981, I have been the Editor and Publisher of *Privacy Times*, a specialty news reporting service that covers credit reporting issues.
- 3 I am the author of *Credit Scores and Credit Reports: How the System Really Works, What You Can Do* (Privacy Times 2004). I am also the co-author of *Your Right to Privacy: A Basic Guide to Legal Rights in an Information Society* (Southern Illinois University Press 1990).
- 4 I have testified as an expert in credit reporting issues numerous times before Congress.
- 5 Since the early 1990s, I have been qualified as an expert witness in credit reporting issues in numerous federal courts.
- 6 In 2004, I passed an industry examination and earned the "FCRA [Fair Credit Reporting



Act] Certification" from the National Credit Reporting Association.

7 In 1990, Equifax Information Services LLC published *The Equifax Report on Consumers in the Information Age*, which listed me as a privacy expert to whom the authors expressed appreciation.

8 In the course of my professional activities as an expert in credit reporting issues, and as a journalist and author who has published work in the field, I have had the opportunity, through research and investigation, to learn about the operations of Equifax and other credit reporting agencies, including the nature and purpose of some of their internal records.

9 From my research and investigation, it is my understanding that Equifax maintains records indicating whether two separate files were merged and the date on which this merging occurred.

10 For instance, Equifax already has disclosed to Plaintiff "ACRO Maintenance Transaction Summaries" and the "Maintenance Sheet Summaries" that summarize "ACRO Maintenance" files and "Maintenance Sheets." Based upon my research and investigation, it is my understanding that the "inquiries" sections of these "maintenance" files will show that Plaintiff's file was merged with the file of the other Ms. Apodaca, and the dates on which that merging occurred.

11 In my opinion, these records are relevant to Plaintiff's case because hers is a "mixed file" case, in which information on another consumer was mixed into her credit file, causing inaccuracies.

Evan Hendricks

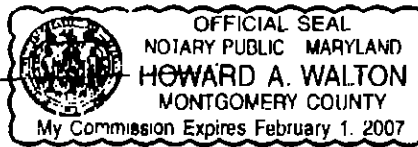
EVAN HENDRICKS

Sworn and subscribed before me this 7 day of February 2005.

Howard A. Walton
Notary Public

Montgomery County, Maryland

My commission expires. _____



November 6, 2003

P. O. Box 105518
Atlanta, GA 30348

002640



000418769-29781
Victoria Apodaca
PO Box 1423
Moriarty NM 87035-1423

Dear Victoria Apodaca:

Below are the results of your request for Equifax to reinvestigate certain elements of your Equifax credit file. Equifax contacted each source directly and our investigation is now completed. Enclosed is an updated copy of your credit file.

Results of Your Investigation (For your security, the last 4 digits of your credit account number(s) have been replaced by *)

We have reviewed the identification information. The results are:

Name: Victoria Apodaca
Ssn: [REDACTED]-2469 Birthdate: 11/19/1954

Your date of birth has been added/updated.

We have reviewed the former address. The results are:

PO Box 1423
Moriarty NM 87035
MIXED

This information was duplicated, and therefore it has been deleted.

We have reviewed the bankruptcy information. The results are:

US Distric Bankruptcy CT O Account Number:
0110123-DSP-04/01-VER-09/03
421 Gold Ave SW
Albuquerque, NM 87102-3254

Equifax verified that this item belongs to you.

We have researched the credit account. The results are:

Direct Merchants Bank Account Number: 545800450269*
PO Box 29468
Phoenix, AZ 85038-9468

This item has been deleted from the credit file.

We have researched the credit account. The results are:

Discover Card Account Number: 601100944018*
12 READS Way
New Castle, DE 19720-1649
Phone Number: (800) 347-2683

Equifax verified that this item belongs to you. Additional information has been provided from the original source regarding this item. See enclosed credit file.

(Continued on next page)

